

AMENDED IN ASSEMBLY APRIL 8, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 229

Introduced by Assembly Member John A. Pérez
(Coauthors: Assembly Members Atkins, Bonilla, Bonta, Cooley,
Dickinson, ~~and Gordon~~ Gordon, and Torres)

February 4, 2013

An act to add Chapter ~~2.10~~ 2.6 (commencing with Section ~~53399~~ 53369) to Part 1 of Division 2 of Title 5 of the Government Code, and to amend Section 33459 of the Health and Safety Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, John A. Pérez. Local government: infrastructure and revitalization financing districts.

Existing law authorizes the creation of infrastructure financing districts, as defined, for the sole purpose of financing public facilities, subject to adoption of a resolution by the legislative body and affected taxing entities proposed to be subject to division of taxes and $\frac{2}{3}$ voter approval. Existing law authorizes the legislative body to, by majority vote, initiate proceedings to issue bonds for the financing of district projects by adopting a resolution, subject to specified procedures and $\frac{2}{3}$ voter approval. Existing law requires an infrastructure financing plan to include the date on which an infrastructure financing district will cease to exist, which may not be more than 30 years from the date on which the ordinance forming the district is adopted. Existing law prohibits a district from including any portion of a redevelopment project area. Existing law, the Polanco Redevelopment Act, authorizes a redevelopment agency to take any action that the agency determines is

necessary and consistent with state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to specified conditions. Existing law also declares the intent of the Legislature that the areas of the district created be substantially undeveloped, and that the establishment of a district should not ordinarily lead to the removal of dwelling units.

This bill would authorize the creation of an infrastructure and revitalization financing district, as defined, and the issuance of debt with $\frac{2}{3}$ voter approval. The bill would authorize the creation of a district for up to 40 years and the issuance of debt with a final maturity date of up to 30 years, as specified. The bill would authorize a district to finance projects in redevelopment project areas and former redevelopment project areas and former military bases. The bill would authorize the legislative body of a city to dedicate any portion of its funds received from the Redevelopment Property Tax Trust Fund to the district, if specified criteria are met. The bill would authorize a city to form a district to finance a project or projects on a former military base, if specified conditions are met.

The bill would authorize a district to fund various projects, including, among others, watershed land used for the collection and treatment of water for urban uses, flood management, levees, bypasses, open space, habitat restoration, brownfields restoration, environmental mitigation, purchase of land and property for development purposes, including commercial property, hazardous cleanup, former military bases, and specified transportation purposes. The bill would authorize a district to implement hazardous cleanup pursuant to the Polanco Redevelopment Act, as specified. The bill would impose a specified reporting requirement on districts. The bill would state that it is the intent of the Legislature that the establishment of a district should not ordinarily lead to the removal of existing functional, habitable, and safe dwelling units, as specified. The bill would define the term “public works” for purposes of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Chapter ~~2.10~~ 2.6 (commencing with Section ~~53399~~ 53369) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER ~~2.10~~ 2.6. INFRASTRUCTURE AND REVITALIZATION
FINANCING DISTRICTS

Article 1. General Provisions

~~53399.~~

53369. It is the intent of the Legislature in enacting this chapter to establish a long-term permanent program that provides local governments with tools and resources for specified purposes, including, but not limited to, public infrastructure, affordable housing, economic development and job creation, and environmental protection and remediation, in a manner that encourages local cooperation and includes appropriate protections for state and local taxpayers.

~~53399.1.~~

53369.1. Unless the context otherwise requires, the definitions contained in this article shall govern the construction of this chapter.

(a) “Affected taxing entity” means any governmental taxing agency that levied or had levied on its behalf a property tax on all or a portion of the property located in the proposed district in the fiscal year prior to the designation of the district, but not including any county office of education, school district, or community college district.

(b) “City” means a city, county, city and county, or joint powers ~~authority~~ authority, where that entity is acting as the military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800).

(c) “Debt” means any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, loans from government agencies, or loans from banks, other financial institutions, private businesses, or individuals.

(d) “Designated official” means the city engineer or other appropriate official designated pursuant to Section ~~53399.13~~ 53369.13.

(e) (1) “District” means an infrastructure and revitalization financing district.

(2) An infrastructure and revitalization financing district is a “district” within the meaning of Section 1 of Article XIII A of the California Constitution.

(f) “Infrastructure and revitalization financing district” means a legally constituted governmental entity established pursuant to this chapter for the sole purpose of financing facilities authorized by this chapter.

(g) “Landowner” or “owner of land” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body does not have any obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, unless the public agency owns all of the land to be included within the proposed district.

(h) “Legislative body” means the city council, board of supervisors, or joint powers authority that is acting as the military base reuse authority established pursuant to Title 7.86 (commencing with Section 67800).

(i) “Project area” means a defined area within a district in which the activities of the district share a common purpose or goal and an overall financing plan.

(j) “Public works” means public facilities or any other facilities described in Section ~~53399.3~~ 53369.3 that are to be financed in whole or in part by the district.

(k) “Net available revenue” means periodic distributions to the city from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5 of the Health and Safety Code, that are available to the city after all preexisting legal commitments and statutory obligations funded from that revenue are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. Net available revenue shall only include revenue remaining after all current distributions, including, but not limited to, payment of enforceable obligations, all

1 distributions to other taxing entities, and applicable administrative
2 fees, have been made.

3 ~~53399.2.~~

4 53369.2. (a) The revenues available pursuant to Article 3
5 (commencing with Section ~~53399.30~~) 53369.30) may be used
6 directly for work allowed pursuant to Section ~~53399.3~~, 53369.3,
7 may be accumulated for a period not to exceed five years to provide
8 a fund for that work, may be pledged to pay the principal of, and
9 interest on, bonds issued pursuant to Article 4 (commencing with
10 Section ~~53399.40~~), 53369.40), or may be pledged to pay the
11 principal of, and interest on, bonds issued pursuant to the
12 Improvement Bond Act of 1915 (Division 10 (commencing with
13 Section 8500) of the Streets and Highways Code) or the
14 Mello-Roos Community Facilities Act of 1982 (Chapter 2.5
15 (commencing with Section 53311)), the proceeds of which have
16 been or will be used entirely for allowable purposes of the district.
17 The revenue of the district may also be advanced for allowable
18 purposes of the district to an Integrated Financing District
19 established pursuant to Chapter 1.5 (commencing with Section
20 53175), in which case the district may be party to a reimbursement
21 agreement established pursuant to that chapter. The revenues of
22 the district may also be committed to paying for any completed
23 facility acquired pursuant to Section ~~53399.3~~ 53369.3 over a period
24 of time, including the payment of a rate of interest not to exceed
25 the bond buyer index rate on the day that the agreement to repay
26 is entered into by the city.

27 (b) The legislative body may enter into an agreement with any
28 affected taxing entity providing for the construction of, or
29 assistance in, financing facilities.

30 ~~53399.3.~~

31 53369.3. (a) A district may finance (1) the purchase,
32 construction, expansion, improvement, seismic retrofit, or
33 rehabilitation of any real or other tangible property with an
34 estimated useful life of 15 years or longer which satisfies the
35 requirements of subdivision (b), (2) planning and design work that
36 is directly related to the purchase, construction, expansion,
37 improvement, rehabilitation, or seismic retrofit of that property,
38 and (3) the costs described in Sections ~~53399.6~~ 53369.6 and
39 ~~53399.31~~. 53369.31. The facilities need not be physically located
40 within the boundaries of the district. A district may not finance

1 routine maintenance, repair work, or the costs of ongoing operation
2 or providing services of any kind.

3 (b) The district shall finance only facilities or projects of
4 communitywide significance, including, but not limited to, any of
5 the following:

6 (1) Highways, interchanges, ramps and bridges, arterial streets,
7 parking facilities, and transit facilities.

8 (2) Sewage treatment and water reclamation plants and
9 interceptor pipes.

10 (3) Facilities and watershed lands used for the collection and
11 treatment of water for urban uses.

12 (4) Flood management, including levees, bypasses, dams,
13 retention basins, and drainage channels.

14 (5) Child care facilities.

15 (6) Libraries.

16 (7) Parks, recreational facilities, open space, and habitat
17 restoration.

18 (8) Facilities for the transfer and disposal of solid waste,
19 including transfer stations and vehicles.

20 (9) Brownfields restoration and other environmental mitigation.

21 (10) Purchase of land and property for development purposes
22 and related site improvements.

23 (11) Acquisition, construction, or repair of housing for rental
24 or purchase, including multipurpose facilities.

25 (12) Acquisition, construction, or repair of commercial or
26 industrial structures for private use.

27 (13) The repayment of the transfer of funds to a military base
28 reuse authority pursuant to Section 67851.

29 (c) Any district that constructs dwelling units shall set aside not
30 less than 20 percent of those units to increase and improve the
31 community's supply of low- and moderate-income housing
32 available at an affordable housing cost, as defined by Section
33 50052.5 of the Health and Safety Code, or at an affordable rent,
34 as defined by Section 50053 of the Health and Safety Code, to
35 persons and families of low and moderate income, as defined in
36 Section 50093 of the Health and Safety Code.

37 (d) A district may utilize any powers under the Polanco
38 Redevelopment Act (Article 12.5 (commencing with Section
39 33459) of Chapter 4 of Part 1 of Division 24 of the Health and

1 Safety Code), and finance any action necessary to implement that
2 act.

3 (e) A district may finance any project that implements a
4 sustainable communities strategy prepared pursuant to Section
5 65080.

6 ~~53399.4.~~

7 53369.4. (a) A city may form a district to finance a project or
8 projects on a former military base pursuant to the requirements set
9 forth in this chapter.

10 (b) A district formed under this section may finance a project
11 pursuant to this section or Section ~~53399.3~~ 53369.3 only if the
12 project is consistent with the authority reuse plan and is approved
13 by the military base reuse authority, if applicable.

14 ~~53399.5.~~

15 53369.5. (a) A district may finance only the facilities or
16 services authorized in this chapter. The additional facilities or
17 services may not supplant facilities or services already available
18 within that territory when the district was created, except if those
19 facilities or services are essentially nonfunctional, obsolete,
20 hazardous, or in need of upgrading or rehabilitation. The additional
21 facilities or services may supplement those facilities and services
22 as needed to serve new developments.

23 (b) A district may include areas that are not contiguous. A
24 district may be divided into project areas, each of which may be
25 subject to distinct limitations established under this chapter. The
26 legislative body may, at any time, add territory to a district or
27 amend the infrastructure financing plan for the district by
28 conducting the same procedures for the formation of a district or
29 approval of bonds, if applicable, as provided pursuant to this
30 chapter.

31 (c) Any district may finance any project or portion of a project
32 that is located in, or overlaps with, any redevelopment project area
33 or former redevelopment project area or former military base.

34 (d) Notwithstanding subdivision (c), any debt or obligation of
35 a district shall be subordinate to an enforceable obligation of a
36 former redevelopment agency, as defined in Section 34171 of the
37 Health and Safety Code.

38 (e) The legislative body of the city forming the district may
39 choose to dedicate any portion of its net available revenue to the

1 district through the financing plan described in Section ~~53399.14~~
2 ~~53369.14~~.

3 ~~53399.6~~.

4 53369.6. It is the intent of the Legislature that the establishment
5 of a district should not ordinarily lead to the removal of existing
6 functional, habitable, and safe dwelling units. If, however, any
7 dwelling units are proposed to be removed or destroyed in the
8 course of private development or facilities construction within the
9 area of the district, the legislative body shall do all of the following:

10 (a) Within four years of the removal or destruction, cause or
11 require the construction or rehabilitation, for rental or sale to
12 persons or families of low or moderate income, of an equal number
13 of replacement dwelling units at affordable housing cost, as defined
14 in Section 50052.5 of the Health and Safety Code, or affordable
15 rent, as defined in Section 50053 of the Health and Safety Code,
16 within the territory of the district if the dwelling units removed
17 were inhabited by persons or families of low or moderate income,
18 as defined in Section 50093 of the Health and Safety Code.

19 (b) Within four years of the removal or destruction, cause or
20 require the construction or rehabilitation, for rental or sale to
21 persons of low or moderate income, a number of dwelling units
22 which is at least one unit but not less than 20 percent of the total
23 dwelling units removed at affordable housing cost, as defined in
24 Section 50052.5 of the Health and Safety Code, or affordable rent,
25 as defined in Section 50053 of the Health and Safety Code, within
26 the territory of the district if the dwelling units removed or
27 destroyed were not inhabited by persons of low or moderate
28 income, as defined in Section 50093 of the Health and Safety Code.

29 (c) In the case of dwelling units located on a former military
30 base that are destroyed or removed in connection with a base reuse
31 plan, replacement dwelling units required by subdivision (a) or
32 (b) may be located anywhere within the territory of the former
33 military base consistent with the base reuse plan, local general
34 plan, and infrastructure financing plan, as applicable.

35 (d) Provide relocation assistance and make all the payments
36 required by Chapter 16 (commencing with Section 7260) of
37 Division 7 of Title 1, to persons displaced by any public or private
38 development occurring within the territory of the district. This
39 displacement shall be deemed to be the result of public action.

(e) Ensure that removal or destruction of any dwelling units occupied by persons or families of low or moderate income not take place unless and until there are suitable housing units, at comparable cost to the units from which the persons or families were displaced, available and ready for occupancy by the residents of the units at the time of their displacement. The housing units shall be suitable to the needs of these displaced persons or families and shall be decent, safe, sanitary, and otherwise standard dwellings.

~~53399.7.~~

53369.7. Any action or proceeding to attack, review, set aside, void, or annul the creation of a district, adoption of an infrastructure financing plan, including a division of taxes thereunder, or an election pursuant to this chapter shall be commenced within 30 days after the enactment of the ordinance creating the district pursuant to Section ~~53399.23.~~ 53369.23. Consistent with the time limitations of this section, such an action or proceeding with respect to a division of taxes under this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that Section 869 of the Code of Civil Procedure shall not apply.

~~53399.8.~~

53369.8. An action to determine the validity of the issuance of bonds pursuant to this chapter may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. However, notwithstanding the time limits specified in Section 860 of the Code of Civil Procedure, the action shall be commenced within 30 days after adoption of the resolution pursuant to Section ~~53399.44~~ 53369.44 providing for issuance of the bonds if the action is brought by an interested person pursuant to Section 863 of the Code of Civil Procedure. Any appeal from a judgment in that action or proceeding shall be commenced within 30 days after entry of judgment.

Article 2. Preparation and Adoption of Infrastructure Revitalization Financing District Plans

~~53399.10.~~

53369.10. A legislative body of a city may designate one or more proposed infrastructure revitalization financing districts

1 pursuant to this chapter. Proceedings for the establishment of a
2 district shall be instituted by the adoption of a resolution of
3 intention to establish the proposed district and shall do all of the
4 following:

5 (a) State that an infrastructure revitalization financing district
6 is proposed to be established under the terms of this chapter and
7 describe the boundaries of the proposed district and any project
8 area proposed within the district, which may be accomplished by
9 reference to a map on file in the office of the clerk of the city.

10 (b) State the type of facilities proposed to be financed by the
11 district. The district may only finance facilities authorized by
12 Section ~~53399.3~~. 53369.3.

13 (c) State that incremental property tax revenue from the city
14 and some or all affected taxing entities within the district may be
15 used to finance these facilities.

16 (d) State that net available revenue from the city may be used
17 to finance these facilities and state the maximum portion of the
18 net available revenue to be committed to the district for each year
19 during which the district will receive these revenues.

20 (e) Fix a time and place for a public hearing on the proposal.

21 ~~53399.11.~~

22 53369.11. The legislative body shall ~~direct the clerk to mail~~
23 *cause* a copy of the resolution of intention to create the district to
24 *be mailed to* each owner of land within the district.

25 ~~53399.12.~~

26 53369.12. The legislative body shall ~~direct the clerk to mail~~
27 *cause* a copy of the resolution to *be mailed to* each affected taxing
28 entity.

29 ~~53399.13.~~

30 53369.13. After adopting the resolution pursuant to Section
31 ~~53399.10~~, 53369.10, the legislative body shall designate and direct
32 the city engineer or other appropriate official to prepare an
33 infrastructure plan pursuant to Section ~~53399.14~~. 53369.14.

34 ~~53399.14.~~

35 53369.14. After receipt of a copy of the resolution of intention
36 to establish a district, the official designated pursuant to Section
37 ~~53399.13~~ 53369.13 shall prepare a proposed infrastructure
38 financing plan. The infrastructure financing plan shall be consistent
39 with the general plan of the city within which the district is located
40 and shall include all of the following:

1 (a) A map and legal description of the proposed district, which
2 may include all or a portion of the district designated by the
3 legislative body in its resolution of intention.

4 (b) A description of the facilities required to serve the
5 development proposed in the area of the district including those
6 to be provided by the private sector, those to be provided by
7 governmental entities without assistance under this chapter, those
8 improvements and facilities to be financed with assistance from
9 the proposed district, and those to be provided jointly. The
10 description shall include the proposed location, timing, and costs
11 of the improvements and facilities.

12 (c) A finding that the facilities are of communitywide
13 significance.

14 (d) A financing section, which shall contain all of the following
15 information:

16 (1) A specification of the maximum portion of the incremental
17 tax revenue of the city and of each affected taxing entity proposed
18 to be committed to the district for each year during which the
19 district will receive incremental tax revenue. The portion need not
20 be the same for all affected taxing entities. The portion may change
21 over time.

22 (2) A projection of the amount of tax revenues expected to be
23 received by the district in each year during which the district will
24 receive tax revenues, including an estimate of the amount of tax
25 revenues attributable to each affected taxing entity proposed to be
26 committed to the district for each year. If applicable, the plan shall
27 also include a specification of the maximum portion of the net
28 available revenue of the city proposed to be committed to the
29 district for each year during which the district will receive revenue.
30 The portion may vary over time.

31 (3) A plan for financing the facilities to be assisted by the
32 district, including a detailed description of any intention to incur
33 debt.

34 (4) A limit on the total number of dollars of taxes that may be
35 allocated to the district pursuant to the plan.

36 (5) A date on which the district shall cease to exist, by which
37 time all tax allocation, including any allocation of net available
38 revenue, to the district will end. The date shall not be more than
39 40 years from the date on which the ordinance forming the district
40 is adopted pursuant to Section ~~53399.23~~, ~~53369.23~~, or a later date,

1 if specified by the ordinance, on which the allocation of tax
2 increment will begin. The district may issue debt with a final
3 maturity date of up to 30 years from the date of issuance of each
4 debt issue, subject to the time limit on tax allocation to the district.

5 (6) An analysis of the costs to the city of providing facilities
6 and services to the area of the district while the area is being
7 developed and after the area is developed. The plan shall also
8 include an analysis of the tax, fee, charge, and other revenues
9 expected to be received by the city as a result of expected
10 development in the area of the district.

11 (7) An analysis of the projected fiscal impact of the district and
12 the associated development upon each affected taxing entity that
13 is proposed to participate in financing the district.

14 (8) A plan for financing any potential costs that may be incurred
15 by reimbursing a developer of a project that is both located entirely
16 within the boundaries of that district and qualifies for the Transit
17 Priority Project Program, pursuant to Section 65470, including
18 any permit and affordable housing expenses related to the project.

19 (e) If any dwelling units occupied by persons or families of low
20 or moderate income are proposed to be removed or destroyed in
21 the course of private development or facilities construction within
22 the area of the district, a plan providing for replacement of those
23 units and relocation of those persons or families consistent with
24 the requirements of Section ~~53399.6~~. 53369.6.

25 ~~53399.15.~~

26 53369.15. The infrastructure financing plan shall be sent to
27 each owner of land within the proposed district and to each affected
28 taxing entity together with any report required by the California
29 Environmental Quality Act (Division 13 (commencing with Section
30 21000) of the Public Resources Code) that pertains to the proposed
31 facilities or the proposed development project for which the
32 facilities are needed, and shall be made available for public
33 inspection. The report shall also be sent to the planning commission
34 and the legislative body.

35 ~~53399.16.~~

36 53369.16. The designated official shall consult with each
37 affected taxing entity, and, at the request of any affected taxing
38 entity, shall meet with representatives of an affected taxing entity.
39 Any affected taxing entity may suggest revisions to the plan.

1 ~~53399.17.~~

2 53369.17. The legislative body shall conduct a public hearing
3 prior to adopting the proposed infrastructure financing plan. The
4 public hearing shall be called no sooner than 60 days after the plan
5 has been sent to each affected taxing entity. In addition to the
6 notice given to landowners and affected taxing entities pursuant
7 to Sections ~~53399.11~~ 53369.11 and ~~53399.12~~, 53369.12, notice of
8 the public hearing shall be given by publication not less than once
9 a week for four successive weeks in a newspaper of general
10 circulation published in the city in which the proposed district is
11 located. The notice shall state that the district will be used to
12 finance public works, briefly describe the public works, briefly
13 describe the proposed financial arrangements, including the
14 proposed commitment of incremental tax revenue, describe the
15 boundaries of the proposed district and state the day, hour, and
16 place when and where any persons having any objections to the
17 proposed infrastructure financing plan, or the regularity of any of
18 the prior proceedings, may appear before the legislative body and
19 object to the adoption of the proposed plan by the legislative body.

20 ~~53399.18.~~

21 53369.18. At the hour set in the required notices, the legislative
22 body shall proceed to hear and pass upon all written and oral
23 objections. The hearing may be continued from time to time. The
24 legislative body shall consider the recommendations, if any, of
25 affected taxing entities, and all evidence and testimony for and
26 against the adoption of the plan. The legislative body may modify
27 the plan by eliminating or reducing the size and cost of proposed
28 public works, by reducing the amount of proposed debt, or by
29 reducing the portion, amount, or duration of incremental tax
30 revenues to be committed to the district.

31 ~~53399.19.~~

32 53369.19. (a) The legislative body shall not enact a resolution
33 proposing formation of a district and providing for the division of
34 taxes of any affected taxing entity pursuant to Article 3
35 (commencing with Section ~~53399.30~~) 53369.30), unless a
36 resolution approving the plan has been adopted by the governing
37 body of each affected taxing entity which is proposed to be subject
38 to division of taxes pursuant to Article 3 (commencing with Section
39 ~~53399.30~~) 53369.30) has been filed with the legislative body at or
40 prior to the time of the hearing.

(b) In the case of an affected taxing entity that is a special district that provides fire protection services and where the county board of supervisors is the governing authority or has appointed itself as the governing board of the district, the plan shall be adopted by a separate resolution approved by the district's governing authority or governing board.

(c) This section shall *not* be construed to prevent the legislative body from amending its infrastructure financing plan and adopting a resolution proposing formation of the infrastructure revitalization financing district without allocation of the tax revenues of any affected taxing entity which has not approved the infrastructure financing plan by resolution of the governing body of the affected taxing entity.

~~53399.20.~~

53369.20. (a) At the conclusion of the hearing, the legislative body may adopt a resolution proposing adoption of the infrastructure financing plan, as modified, and formation of the infrastructure revitalization financing district in a manner consistent with Section ~~53399.19~~, 53369.19, or it may abandon the proceedings. If the legislative body adopts a resolution proposing formation of the district, it shall then submit the proposal to create the district to the qualified electors of the proposed district in the next general election or in a special election to be held, notwithstanding any other requirement, including any requirement that elections be held on specified dates, contained in the Elections Code, at least 90 days, but not more than 180 days, following the adoption of the resolution of formation. The legislative body shall provide the resolution of formation, a certified map of sufficient scale and clarity to show the boundaries of the district, and a sufficient description to allow the election official to determine the boundaries of the district to the official conducting the election within three business days after the adoption of the resolution of formation. The assessor's parcel numbers for the land within the district shall be included if it is a landowner election or the district does not conform to an existing district's boundaries and if requested by the official conducting the election. If the election is to be held less than 125 days following the adoption of the resolution of formation, the concurrence of the election official conducting the election shall be required. However, any time limit specified by this section or requirement pertaining to the conduct

1 of the election may be waived with the unanimous consent of the
2 qualified electors of the proposed district and the concurrence of
3 the election official conducting the election.

4 (b) If at least 12 persons have been registered to vote within the
5 territory of the proposed district for each of the 90 days preceding
6 the close of the hearing, the vote shall be by the registered voters
7 of the proposed district, who need not necessarily be the same
8 persons, with each voter having one vote. Otherwise, the vote shall
9 be by the landowners of the proposed district and each landowner
10 who is the owner of record at the close of the protest hearing, or
11 the authorized representative thereof, shall have one vote for each
12 acre or portion of an acre of land that he or she owns within the
13 proposed district. The number of votes to be voted by a particular
14 landowner shall be specified on the ballot provided to that
15 landowner.

16 (c) Ballots for the special election authorized by subdivision (a)
17 may be distributed to qualified electors by mail with return postage
18 prepaid or by personal service by the election official. The official
19 conducting the election may certify the proper mailing of ballots
20 by an affidavit, which shall be exclusive proof of mailing in the
21 absence of fraud. The voted ballots shall be returned to the election
22 officer conducting the election not later than the hour specified in
23 the resolution calling the election. However, if all the qualified
24 voters have voted, the election shall be closed.

25 ~~53399.21.~~

26 ~~53369.21.~~ (a) Except as otherwise provided in this chapter,
27 laws regulating elections of the local agency that calls an election
28 pursuant to this chapter, insofar as they may be applicable, shall
29 govern all elections conducted pursuant to this chapter. Except as
30 provided in subdivision (b), there shall be prepared and included
31 in the ballot material provided to each voter, an impartial analysis
32 pursuant to Section 9160 or 9280 of the Elections Code, arguments
33 and rebuttals, if any, pursuant to Sections 9162 to 9167, inclusive,
34 and 9190 of the Elections Code or pursuant to Sections 9281 to
35 9287, inclusive, and 9295 of the Elections Code.

36 (b) If the vote is to be by the landowners of the proposed district,
37 analysis and arguments may be waived with the unanimous consent
38 of all the landowners and shall be so stated in the order for the
39 election.

1 ~~53399.22.~~

2 53369.22. (a) If the election is to be conducted by mail ballot,
3 the election official conducting the election shall provide ballots
4 and election materials pursuant to subdivision (d) of Section 53326
5 and Section 53327, together with all supplies and instructions
6 necessary for the use and return of the ballot.

7 (b) The identification envelope for return of mail ballots used
8 in landowner elections shall contain the following:

9 (1) The name of the landowner.

10 (2) The address of the landowner.

11 (3) A declaration, under penalty of perjury, stating that the voter
12 is the owner of record or the authorized representative of the
13 landowner entitled to vote and is the person whose name appears
14 on the identification envelope.

15 (4) The printed name and signature of the voter.

16 (5) The address of the voter.

17 (6) The date of signing and place of execution of the declaration
18 pursuant to paragraph (3).

19 (7) A notice that the envelope contains an official ballot and is
20 to be opened only by the canvassing board.

21 ~~53399.23.~~

22 53369.23. After the canvass of returns of any election pursuant
23 to Section ~~53399.20~~, 53369.20, the legislative body may, by
24 ordinance, adopt the infrastructure financing plan and create the
25 district with full force and effect of law, if two-thirds of the votes
26 upon the question of creating the district are in favor of creating
27 the district.

28 ~~53399.24.~~

29 53369.24. After the canvass of returns of any election
30 conducted pursuant to Section ~~53399.20~~, 53369.20, the legislative
31 body shall take no further action with respect to the proposed
32 infrastructure revitalization financing district for one year from
33 the date of the election if the question of creating the district fails
34 to receive approval of two-thirds of the votes cast upon the
35 question.

36 ~~53399.25.~~

37 53369.25. The legislative body may submit a proposition to
38 establish or change the appropriations limit, as defined by
39 subdivision (h) of Section 8 of Article XIII B of the California
40 Constitution, of a district to the qualified electors of a proposed

1 or established district. The proposition establishing or changing
2 the appropriations limit shall become effective if approved by the
3 qualified electors voting on the proposition and shall be adjusted
4 for changes in the cost of living and changes in populations, as
5 defined by subdivisions (b) and (c) of Section 7901, except that
6 the change in population may be estimated by the legislative body
7 in the absence of an estimate by the Department of Finance, and
8 in accordance with Section 1 of Article XIII B of the California
9 Constitution. For purposes of adjusting for changes in population,
10 the population of the district shall be deemed to be at least one
11 person during each calendar year. Any election held pursuant to
12 this section may be combined with any election held pursuant to
13 Section ~~53395.20~~ 53369.20 in any convenient manner.

14 ~~53399.26.~~

15 53369.26. No later than June 30 of each year after the adoption
16 of an infrastructure financing plan, the legislative body shall post
17 an annual report in an easily identifiable and accessible location
18 on the legislative body's Internet Web site. The annual report shall
19 contain all of the following:

- 20 (a) A summary of the district's expenditures.
21 (b) A description of the progress made toward the district's
22 adopted goals.
23 (c) An assessment of the status regarding completion of the
24 district's projects.

25
26 Article 3. Division of Taxes

27
28 ~~53399.30.~~

29 53369.30. Any infrastructure financing plan may contain a
30 provision that taxes, if any, levied upon taxable property in the
31 area included within the infrastructure revitalization financing
32 district each year by or for the benefit of the State of California,
33 or any affected taxing entity after the effective date of the ordinance
34 adopted pursuant to Section ~~53399.23~~ 53369.23 to create the
35 district, shall be divided as follows:

- 36 (a) That portion of the taxes which would be produced by the
37 rate upon which the tax is levied each year by or for each of the
38 affected taxing entities upon the total sum of the assessed value
39 of the taxable property in the district as shown upon the assessment
40 roll used in connection with the taxation of the property by the

1 affected taxing entity, last equalized prior to the effective date of
2 the ordinance adopted pursuant to Section ~~53399.23~~ 53369.23 to
3 create the district, shall be allocated to, and when collected shall
4 be paid to, the respective affected taxing entities as taxes by or for
5 the affected taxing entities on all other property are paid.

6 (b) That portion of the levied taxes each year specified in the
7 adopted infrastructure financing plan for the city and each affected
8 taxing entity which has agreed to participate pursuant to Section
9 ~~53399.19~~ 53369.19 in excess of the amount specified in subdivision
10 (a) shall be allocated to, and when collected shall be paid into a
11 special fund of, the district for all lawful purposes of the district.
12 Unless and until the total assessed valuation of the taxable property
13 in a district exceeds the total assessed value of the taxable property
14 in the district as shown by the last equalized assessment roll
15 referred to in subdivision (a), all of the taxes levied and collected
16 upon the taxable property in the district shall be paid to the
17 respective affected taxing entities. When the district ceases to exist
18 pursuant to the adopted infrastructure financing plan, all moneys
19 thereafter received from taxes upon the taxable property in the
20 district shall be paid to the respective affected taxing entities as
21 taxes on all other property are paid.

22 ~~53399.31.~~

23 53369.31. All costs incurred by a county in connection with
24 the division of taxes pursuant to Section ~~53399.30~~ 53369.30 for a
25 district shall be paid by that district.

26 Article 4. Tax Increment Bonds

27
28
29 ~~53399.40.~~

30 53369.40. The legislative body may, by majority vote, initiate
31 proceedings to issue bonds pursuant to this chapter by adopting a
32 resolution stating its intent to issue the bonds.

33 ~~53399.41.~~

34 53369.41. The resolution adopted pursuant to Section ~~53399.40~~
35 53369.40 shall contain all of the following information:

36 (a) A description of the facilities to be financed with the
37 proceeds of the proposed bond issue.

38 (b) The estimated cost of the facilities, the estimated cost of
39 preparing and issuing the bonds, and the principal amount of the
40 proposed bond issuance.

1 (c) The maximum interest rate and discount on the proposed
2 bond issuance.

3 (d) The date of the election on the proposed bond issuance and
4 the manner of holding the election.

5 (e) A determination of the amount of tax revenue available or
6 estimated to be available, for the payment of the principal of, and
7 interest on, the bonds.

8 (f) A finding that the amount necessary to pay the principal of,
9 and interest on, the proposed bond issuance will be less than, or
10 equal to, the amount determined pursuant to subdivision (e).

11 ~~53399.42.~~

12 53369.42. The clerk of the legislative body shall publish the
13 resolution adopted pursuant to Section ~~53399.40~~ 53369.40 once a
14 day for at least seven successive days in a newspaper published
15 in the city or county at least six days a week, or at least once a
16 week for two successive weeks in a newspaper published in the
17 city or county less than six days a week.

18 If there are no newspapers meeting these criteria, the resolution
19 shall be posted in three public places within the territory of the
20 district for two succeeding weeks.

21 ~~53399.43.~~

22 53369.43. The legislative body shall submit the proposal to
23 issue the bonds to the voters who reside within the district. The
24 election shall be conducted in the same manner as the election to
25 create the district pursuant to Section ~~53399.20~~ 53369.20 and the
26 two elections may be consolidated.

27 ~~53399.44.~~

28 53369.44. (a) Bonds may be issued only if two-thirds of the
29 voters voting on the proposition vote in favor of authorizing the
30 issuance of the bonds.

31 (b) If the voters authorize the issuance of the bonds as provided
32 by subdivision (a), the legislative body may subsequently proceed
33 with the issuance of the bonds by adopting a resolution which shall
34 provide for all of the following:

35 (1) The issuance of the bonds in one or more series.

36 (2) The principal amount of the bonds, which shall be consistent
37 with the amount specified in subdivision (b) of Section ~~53399.41.~~
38 53369.41.

39 (3) The date the bonds will bear.

40 (4) The date of maturity of the bonds.

1 (5) The denomination of the bonds.

2 (6) The form of the bonds.

3 (7) The manner of execution of the bonds.

4 (8) The medium of payment in which the bonds are payable.

5 (9) The place or manner of payment and any requirements for
6 registration of the bonds.

7 (10) The terms of call or redemption, with or without premium.

8 ~~53399.45.~~

9 53369.45. If any proposition submitted to the voters pursuant
10 to this chapter is defeated by the voters, the legislative body shall
11 not submit, or cause to be submitted, a similar proposition to the
12 voters for at least one year after the first election.

13 ~~53399.46.~~

14 53369.46. The legislative body may, by majority vote, provide
15 for refunding of bonds issued pursuant to this chapter. However,
16 refunding bonds shall not be issued if the total net interest cost to
17 maturity on the refunding bonds plus the principal amount of the
18 refunding bonds exceeds the total net interest cost to maturity on
19 the bonds to be refunded. The legislative body may not extend the
20 time to maturity of the bonds.

21 ~~53399.47.~~

22 53369.47. The legislative body or any person executing the
23 bonds shall not be personally liable on the bonds by reason of their
24 issuance. The bonds and other obligations of a district issued
25 pursuant to this chapter are not a debt of the city, county, or state
26 or of any of its political subdivisions, other than the district, and
27 none of those entities, other than the district, shall be liable on the
28 bonds and the bonds or obligations shall be payable exclusively
29 from funds or properties of the district. The bonds shall contain a
30 statement to this effect on their face. The bonds do not constitute
31 an indebtedness within the meaning of any constitutional or
32 statutory debt limitation.

33 ~~53399.48.~~

34 53369.48. (a) The bonds may be sold at discount not to exceed
35 5 percent of par at a negotiated or public sale. At least five days
36 prior to a public sale, notice shall be published, pursuant to Section
37 6061, in a newspaper of general circulation and in a financial
38 newspaper published in the City and County of San Francisco and
39 in the City of Los Angeles. The bonds may be sold at not less than

1 par to the federal government at private sale without any public
2 advertisement.

3 (b) Any negotiated sale of bonds pursuant to this section shall
4 be limited to bond issuances of an infrastructure and revitalization
5 financing district that do not exceed five million dollars
6 (\$5,000,000).

7 ~~53399.49.~~

8 ~~53369.49.~~ If any member of the legislative body whose
9 signature appears on bonds ceases to be a member of the legislative
10 body before delivery of the bonds, his or her signature is as
11 effective as if he or she had remained in office. Bonds issued
12 pursuant to this chapter are fully negotiable.

13 SEC. 2. Section 33459 of the Health and Safety Code is
14 amended to read:

15 33459. For purposes of this article, the following terms shall
16 have the following meanings:

17 (a) "Department" means the Department of Toxic Substances
18 Control.

19 (b) "Director" means the Director of Toxic Substances Control.

20 (c) "Hazardous substance" means any hazardous substance as
21 defined in subdivision (h) of Section 25281, and any reference to
22 hazardous substance in the definitions referenced in this section
23 shall be deemed to refer to hazardous substance, as defined in this
24 subdivision.

25 (d) "Local agency" means a single local agency that is one of
26 the following:

27 (1) A local agency authorized pursuant to Section 25283 to
28 implement Chapter 6.7 (commencing with Section 25280) of, and
29 Chapter 6.75 (commencing with Section 25299.10) of, Division
30 20.

31 (2) A local officer who is authorized pursuant to Section 101087
32 to supervise a remedial action.

33 (3) An infrastructure and revitalization financing district.

34 (e) "Qualified independent contractor" means an independent
35 contractor who is any of the following:

36 (1) An engineering geologist who is certified pursuant to Section
37 7842 of the Business and Professions Code.

38 (2) A geologist who is registered pursuant to Section 7850 of
39 the Business and Professions Code.

- 1 (3) A civil engineer who is registered pursuant to Section 6762
2 of the Business and Professions Code.
- 3 (f) “Release” means any release, as defined in Section 25320.
- 4 (g) “Remedy” or “remove” means any action to assess, evaluate,
5 investigate, monitor, remove, correct, clean up, or abate a release
6 of a hazardous substance or to develop plans for those actions.
7 “Remedy” includes any action set forth in Section 25322 and
8 “remove” includes any action set forth in Section 25323.
- 9 (h) “Responsible party” means any person described in
10 subdivision (a) of Section 25323.5 of this code or subdivision (a)
11 of Section 13304 of the Water Code.